

## **REMARKS**

### **Interview**

The applicant extends appreciation for the courtesy shown by the Examiner during an interview which occurred on 25 January 2010. During that interview, claims 1, 6 and 11 were discussed with regard to the pending office action and the rejection under 103(a).

Applicant submitted that claim 1 recites deciding to make the transfer, dependent upon said value, and upon said amount or rate, and upon said mode, said mode referring back to whether or not the shared channels are in an acknowledgement mode as previously determined. It was submitted that Vialen fails to teach or suggest deciding to switch between dedicated and shared channels dependent upon the result of the determination of the acknowledgement (i.e., whether the acknowledgement mode is off or on). The Examiner's interpretation of the Vialen reference as found at the 1st full paragraph of page 3 of outstanding action was also discussed.

No agreement on allowance was reached at that time, leading to the submission of this after final amendment and response for the Examiner's consideration.

### **Status of the Claims**

Claims 1-3, 5-8 and 10-16 are pending, claims 1, 6 and 11 being independent claims.

Claims 4 and 9 were previously cancelled.

Claims 1-3, 5-8 and 10-16 have been rejected under 35 U.S.C. 103(a) for obviousness over Winberg (GB 2369003) in view of Helmersson (WO 02/067606) and further in view of Vielen (US 6,978,143).

Claim 1 is amended herein.

### **Claim 1**

Claim 1 is amended in the interest of furthering prosecution. Amended claim 1 recites, in part, "determining whether or not the shared channels are in a mode in which an acknowledgement of receipt is required to be received back before data is assumed to have been correctly received" and "deciding to make the transfer, dependent upon said value and upon said amount or rate, and upon said mode determined". Accordingly, the result of the determination of whether or not the shared

channels are in mode in which acknowledgement of receipt is required is utilized in deciding to make the transfer.

The cited Winberg, Helmerson and Vielen fail to teach or suggest the recited feature in claim 1 of determining whether or not the shared channels are in a mode requiring acknowledgement of the data and deciding whether to make a transfer between dedicated and shared channels dependent on the result of that determination. Accordingly, Applicant requests withdrawal of the rejection and allowance of the claim.

The Examiner acknowledges that Winberg, modified by Helmerson, does not show a shared channel in a mode in which an acknowledgement is required but alleges that Vielen teaches a system that makes a decision for uses of common channel or dedicated channel based on acknowledgement received in common channel RACH/RACH. See the office action, page 5, 2<sup>nd</sup> full paragraph.

Vielen apparently teaches a shared channel for which a control signal is required to switch to a dedicated channel. See column 2 lines 55-59. However, Vielen fails to teach or suggest deciding to make the transfer between channels dependent on whether there is an acknowledgement (of receipt of the data) mode and whether that mode is on or off. Vielen teaches deciding to make a transfer between a dedicated channel and a shared channel based on a plurality of other selection parameters, see e.g., Vielen column 4 lines 4 to 12, which refers to the decision being based on

“size of data packet; amount of data in RLC buffers or  
information obtained from higher layers about the amount of data to be  
transferred,

bit rate required,

allowable transfer delay,

priority or importance of the data to be transferred,

channel load,

power level required for the transfer on the RACH, and

maximum packet size transferable on the RACH.”

Further, Vielen also teaches the decision to use a shared channel or a dedicated channel being made with no radio interface signalling being required, see column 2 lines 61 to 63.

In sharp contrast, the claimed invention relates to deciding whether to transfer between channels based on determining/(said determination) whether or not the shared channels are in a mode in which an acknowledgment of receipt is required to be received back before data is assumed to have been correctly received. Based on the mode determined (and other determined variable values), the claimed method decides to make the transfer.

Paragraph [0026] of the Applicant's application recognizes that in an acknowledgement mode, more traffic will result. The response to argument section of the office action notes Applicant's [0026] and appears to allege

since Vialen discloses a system in which acknowledgements may be transferred on the forward link access channel (FACH), and Vialen teaches deciding to make a transfer between a dedicated channel and a shared channel based on a plurality of selection parameters,

Vialen teaches and discloses the decision based on a plurality of channel parameters, including when the common channel experiences more signal acknowledgements. See the office action, page 5, 2<sup>nd</sup> full paragraph.

However, Vialen fails to disclose or suggest that status of the acknowledgement mode (i.e., whether or not the shared channels require an acknowledgement of receipt to be received back before data is assumed to have been correctly received) being utilized as a parameter in the transfer between channels. In sharp contrast, as noted above, the claimed invention relates to deciding whether to transfer between channels based on determining/(said determination) whether or not the shared channels are in a mode in which an acknowledgment of receipt is required to be received back before data is assumed to have been correctly received. Based on the mode determined (and other determined variable values), the claimed method decides to make the transfer.

In addition, Winberg teaches deciding to make the transfer dependent upon other factors, not those recited by the claimed invention. Specifically, Winberg

teaches deciding whether to transfer between dedicated and shared channels based on buffer level threshold values, data throughput level threshold values, and time values, see Winberg column 4 lines 23-24 and column 5 lines 24-26. Helmerson is directed to a switching scheme in which users which are close to a base station are allocated a downlink shared channel in order to save channelization codes in the system, whereas users that are far from a base station are allocated a downlink dedicated channel in order to conserve transmission power. See Helmerson Abstract. Neither Winberg nor Helmerson suggest determining whether or not the shared channels are in a mode in which an acknowledgment of receipt is required to be received back before data is assumed to have been correctly received for the determination of whether to switch between dedicated and shared channels.

Accordingly, the Applicant respectfully submits that the cited references fail to teach or suggest this claim feature and requests that claim 1 be allowed.

Claims 2 to 3, 5

Claims 2, 3 and 5 depend from and include all the limitations of base claim 1. Accordingly, dependent claims 2, 3 and 5 are patentable not least on the basis that they each depend on an allowable independent claim 1.

Claim 6

Claim 6 recites:

“the decision means being operative to control transfer of the call connection by the channel allocator between the dedicated channels and the shared channels dependent upon:

...a third input signal to the decision means indicating whether or not the shared channels are in a mode in which an acknowledgement of receipt is required to be received back before data is assumed to have been correctly received.”

As explained in respect of claim 1 above, none of Winberg, Helmerson nor Vielen teaches or suggests such an input signal to the decision means indicating “whether or not the shared channels are in a mode in which an acknowledgement of receipt is required to be received back before data is assumed to have been correctly received”, where the decision means operate to control transfer of a call connection

between dedicated and shared channels dependent upon that input signal indicative of the mode. None of these references suggest decision means operate to control transfer of a call connection between dedicated and shared channels dependent upon, amongst other things, that (third) input signal.

It follows that since the cited references fail to teach or suggest this claim feature, the 35 U.S.C.103 rejection should be withdrawn.

Claims 7, 8 and 10

Claims 7, 8 and 10 depend from and include all the limitations of base claim 6. Accordingly, dependent claims 7, 8 and 10 are patentable not least on the basis that they each depend on an allowable independent claim 6.

Claim 11

Claim 11 recites:

“decision means, a channel allocator, and a determinator,  
the decision means adapted to control transfer of a call connection via the channel allocator between dedicated channels and shared channels dependent upon:  
... a third input signal indicating whether or not the shared channels operate in a mode in which an acknowledgement of receipt is required to be received back before data is assumed to have been correctly received.”

As explained with respect to claim 1 above, neither Winberg, Helmerson or Vielen teaches or suggests such an input signal to the decision means indicating “whether or not the shared channels operate in a mode in which an acknowledgement of receipt is required to be received back before data is assumed to have been correctly received”, where the decision means is adapted to control transfer of a call connection between dedicated and shared channels dependent upon, amongst other things, that third input signal.

It follows that since the cited references fail to teach or suggest this claim feature, the 35 U.S.C.103 rejection should be withdrawn.

Claims 12 to 16

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Claims 12 to 16 depend from and include all the limitations of base claim 11. Accordingly, dependent claims 12 to 16 are patentable not least on the basis that they each depend on an allowable independent claim 1.

Conclusion

In view of the foregoing, allowance of all the claims presently in the application is respectfully requested, as is passage to issuance of the application. If the Examiner should feel that the application is not yet in a condition for allowance and that a telephone interview would be useful, he is invited to contact Applicants' attorney, David M. La Bruno, at **908 582 3190**.

Respectfully submitted,

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Date: 25 Jan 2010